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►B ►M1 **DIRECTIVE 2009/33/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

of 23 April 2009

on the promotion of clean road transport vehicles in support of low-emission mobility ◄

(Text with EEA relevance)

(OJ L 120, 15.5.2009, p. 5)

Amended by:

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►M1	Directive (EU) 2019/1161 of the European Parliament and of the Council of 20 June 2019	L 188	116	12.7.2019

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▼M1

Article 1

Subject matter and objectives

This Directive requires Member States to ensure that contracting authorities and contracting entities take into account lifetime energy and environmental impacts, including energy consumption and emissions of CO_2 and of certain pollutants, when procuring certain road transport vehicles with the objectives of promoting and stimulating the market for clean and energy-efficient vehicles and of improving the contribution of the transport sector to the environment, climate and energy policies of the Union.

Article 2

Exemptions

Member States may exempt from the requirements laid down in this Directive vehicles referred to in point (d) of Article 2(2) and in points (a) and (b) of Article 2(3) of Regulation (EU) 2018/858 of the European Parliament and of the Council [1] and in points 5.2. to 5.5. and point 5.7. of Part A of Annex I to that Regulation.

Article 3

Scope

1. This Directive shall apply to procurement through:

(a) contracts for the purchase, lease, rent or hire-purchase of road transport vehicles awarded by contracting authorities or contracting entities in so far as they are under an obligation to apply the procurement procedures set out in Directives 2014/24/EU [2] and 2014/25/EU [3] of the European Parliament and of the Council;

[1] Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1).

[2] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

[3] Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

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(b) public service contracts within the meaning of Regulation (EC) No 1370/2007 of the European Parliament and of the Council [1] having as their subject matter the provision of passenger road transport services in excess of a threshold which shall be defined by Member States not exceeding the applicable threshold value set in Article 5(4) of that Regulation;

(c) service contracts set out in Table 1 of the Annex to this Directive in so far as the contracting authorities or contracting entities are under an obligation to apply the procurement procedures set out in Directives 2014/24/EU and 2014/25/EU.

This Directive shall only apply to such contracts for which the call for competition has been sent after 2 August 2021 or, in cases where a call for competition is not foreseen, where the contracting authority or contracting entity has commenced the procurement procedure after that date.

2. This Directive shall not apply to:

(a) vehicles referred to in points (a), (b) and (c) of Article 2(2) and in point (c) of Article 2(3) of Regulation (EU) 2018/858;

(b) vehicles of category M_3 other than Class I and Class A vehicles as defined in points (2) and (3) of Article 3 of Regulation (EC) No 661/2009 of the European Parliament and of the Council [2].

Article 4

Definitions

For the purpose of this Directive:

(1) ‘contracting authorities’ means contracting authorities as defined in point 1 of Article 2(1) of Directive 2014/24/EU and in Article 3 of Directive 2014/25/EU;

(2) ‘contracting entities’ means contracting entities as defined in Article 4 of Directive 2014/25/EU;

(3) ‘road transport vehicle’ means a vehicle of category M or N, as defined in points (a) and (b) of Article 4(1) of Regulation (EU) 2018/858;

(4) ‘clean vehicle’ means:

(a) a vehicle of category M_1, M_2 or N_1 with a maximum tail-pipe emission expressed in CO_2 g/km and real driving pollutant emissions below a percentage of the applicable emission limits as laid down in Table 2 of the Annex; or

[1] Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1).

[2] Regulation (EC) No 661/2009 of the European Parliament and of the Council of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor (OJ L 200, 31.7.2009, p. 1).

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(b) a vehicle of category M_3, N_2 or N_3 using alternative fuels as defined in points (1) and (2) of Article 2 of Directive 2014/94/EU of the European Parliament and of the Council ([1]), excluding fuels produced from high indirect land-use change-risk feed stock for which a significant expansion of the production area into land with high-carbon stock is observed in accordance with Article 26 of Directive (EU) 2018/2001 of the European Parliament and of the Council ([2]). In the case of vehicles using liquid biofuels, synthetic and paraffinic fuels, those fuels shall not be blended with conventional fossil fuels;

(5) 'zero-emission heavy duty vehicle' means a clean vehicle as defined in point 4(b) of this Article without an internal combustion engine, or with an internal combustion engine that emits less than 1 g CO_2/kWh as measured in accordance with Regulation (EC) No 595/2009 of the European Parliament and of the Council ([3]) and its implementing measures, or that emits less than 1 g CO_2/km as measured in accordance with Regulation (EC) No 715/2007 of the European Parliament and of the Council ([4]) and its implementing measures.

Article 5

Minimum procurement targets

1. Member States shall ensure that the procurement of vehicles and services referred to in Article 3 complies with the minimum procurement targets for clean light-duty vehicles set out in Table 3 of the Annex and for clean heavy-duty vehicles set out in Table 4 of the Annex. Those targets are expressed as minimum percentages of clean vehicles in the total number of road transport vehicles covered by the aggregate of all contracts referred to in Article 3, awarded between 2 August 2021 and 31 December 2025, for the first reference period, and between 1 January 2026 and 31 December 2030, for the second reference period.

2. For the purpose of calculating the minimum procurement targets, the date of the public procurement to be taken into account is the date of completion of the public procurement procedure, by way of awarding of the contract.

([1]) Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure (OJ L 307, 28.10.2014, p. 1).

([2]) Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

([3]) Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to vehicle repair and maintenance information and amending Regulation (EC) No 715/2007 and Directive 2007/46/EC and repealing Directives 80/1269/EEC, 2005/55/EC and 2005/78/EC (OJ L 188, 18.7.2009, p. 1).

([4]) Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ L 171, 29.6.2007, p. 1).

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3. Vehicles that meet the definition of clean vehicle under point 4 of Article 4 or of zero-emission heavy-duty vehicle under point 5 of Article 4 as a result of retrofitting may be counted as clean vehicles or zero-emission heavy-duty vehicles, respectively, for the purpose of compliance with the minimum procurement targets.

4. In the case of contracts referred to in point (a) of Article 3(1), the number of road transport vehicles purchased, leased, rented or hire-purchased under each contract shall be taken into account for the purpose of assessing compliance with the minimum procurement targets.

5. In the case of contracts referred to in points (b) and (c) of Article 3(1), the number of road transport vehicles to be used for the provision of the services covered by each contract shall be taken into account for the purpose of assessing compliance with the minimum procurement targets.

6. Where new targets for the period after 1 January 2030 are not adopted, the targets set for the second reference period shall continue to apply, and shall be calculated in accordance with paragraphs 1 to 5, over subsequent five-year periods.

7. Member States may apply or authorise their contracting authorities or contracting entities to apply higher national targets or more stringent requirements than those referred to in the Annex.

Article 8

Exchange of knowledge and best practices

The Commission shall facilitate and structure the exchange of knowledge and best practices between Member States on practices for promoting procurement of clean and energy-efficient road transport vehicles by contracting authorities and contracting entities.

Article 9

Committee procedure

1. The Commission shall be assisted by the committee established by Article 9 of Directive 2014/94/EU.

That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council ([1]).

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

([1]) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

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Article 10

Reporting and review

1. By 2 August 2022 Member States shall inform the Commission of the measures taken to implement this Directive and of the Member States' intentions regarding future implementation activities, including the timing and possible effort-sharing between different levels of governance, as well as on any other information which the Member State considers relevant.

2. By 18 April 2026, and every three years thereafter, Member States shall submit to the Commission a report on the implementation of this Directive. Those reports shall accompany the reports provided for in the second subparagraph of Article 83(3) of Directive 2014/24/EU and the second subparagraph of Article 99(3) of Directive 2014/25/EU, and they shall contain information on the measures taken to implement this Directive, on future implementation activities, as well as any other information which the Member State considers relevant. Those reports shall also include the number and the categories of vehicles covered by the contracts referred to in Article 3(1) of this Directive, based on the data provided by the Commission in accordance with paragraph 3 of this Article. The information shall be presented on the basis of the categories set out in Regulation (EC) No 2195/2002 of the European Parliament and of the Council ([1]).

3. In order to assist the Member States in their reporting obligations, the Commission shall collate and publish the number and the categories of vehicles covered by the contracts referred to in points (a) and (c) of Article 3(1) of this Directive by extracting the relevant data from contract award notices published on the Tenders Electronic Daily (TED) database in accordance with Directives 2014/24/EU and 2014/25/EU.

4. By 18 April 2027, and every three years thereafter, the Commission shall submit a report to the European Parliament and to the Council on the implementation of this Directive, specifying the measures taken by Member States in this regard, following the reports referred to in paragraph 2.

5. By 31 December 2027, the Commission shall review the implementation of this Directive and, where appropriate, submit a legislative proposal for its amendment for the period after 2030, including for the setting of new targets and for the inclusion of other categories of vehicles, such as two- and three-wheeled vehicles.

6. The Commission shall adopt implementing acts in accordance with Article 9(2) setting out the format of the reports referred to in paragraph 2 of this Article and their transmission arrangements.

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Article 11

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 4 December 2010. They shall forthwith inform the Commission thereof.

([1]) Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV) (OJ L 340, 16.12.2002, p. 1).

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When Member States adopt these measures, they shall contain a reference to this Directive, or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 12

Entry into force

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 13

Addressees

This Directive is addressed to the Member States.

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ANNEX

INFORMATION FOR THE IMPLEMENTATION OF MINIMUM PROCUREMENT TARGETS FOR CLEAN ROAD TRANSPORT VEHICLES IN SUPPORT OF LOW-EMISSION MOBILITY IN MEMBER STATES

Table 1: Common Procurement Vocabulary (CPV) codes for services referred to in point (c) of Article 3(1)

CPV Code	Description
60112000-6	Public road transport services
60130000-8	Special-purpose road passenger-transport services
60140000-1	Non-scheduled passenger transport
90511000-2	Refuse collection services
60160000-7	Mail transport by road
60161000-4	Parcel transport services
64121100-1	Mail delivery services
64121200-2	Parcel delivery services

Table 2: Emission thresholds for clean light-duty vehicles

Vehicle categories	Until 31 December 2025		From 1 January 2026	
	CO_2 g/km	RDE air pollutant emissions (1) as a percentage of emission limits (2)	CO_2 g/km	RDE air pollutant emissions (1) as a percentage of emission limits (2)
M_1	50	80 %	0	n.a.
M_2	50	80 %	0	n.a.
N_1	50	80 %	0	n.a.

(1) Declared maximum real-driving emission (RDE) values of particles number (PN) in #/km and nitrogen oxides (NOx) in mg/km as reported in point 48.2 of the certificate of conformity, as described in Annex IX to Directive 2007/46/EC of the European Parliament and of the Council (*) for both complete and urban RDE trips.

(2) The applicable emission limits laid down in Annex I to Regulation (EC) No 715/2007, or its successors.

(*) Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ L 263, 9.10.2007, p. 1).

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Table 3: Minimum procurement targets for the share of clean light-duty vehicles in accordance with Table 2 in the total number of light-duty vehicles covered by contracts referred to in Article 3 at Member State level

Member State	From 2 August 2021 to 31 December 2025	From 1 January 2026 to 31 December 2030
Luxembourg	38,5 %	38,5 %
Sweden	38,5 %	38,5 %
Denmark	37,4 %	37,4 %
Finland	38,5 %	38,5 %
Germany	38,5 %	38,5 %
France	37,4 %	37,4 %
United Kingdom	38,5 %	38,5 %
Netherlands	38,5 %	38,5 %
Austria	38,5 %	38,5 %
Belgium	38,5 %	38,5 %
Italy	38,5 %	38,5 %
Ireland	38,5 %	38,5 %
Spain	36,3 %	36,3 %
Cyprus	31,9 %	31,9 %
Malta	38,5 %	38,5 %
Portugal	29,7 %	29,7 %
Greece	25,3 %	25,3 %
Slovenia	22 %	22 %
Czechia	29,7 %	29,7 %
Estonia	23,1 %	23,1 %
Slovakia	22 %	22 %
Lithuania	20,9 %	20,9 %
Poland	22 %	22 %
Croatia	18,7 %	18,7 %
Hungary	23,1 %	23,1 %
Latvia	22 %	22 %
Romania	18,7 %	18,7 %
Bulgaria	17,6 %	17,6 %

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Table 4: Minimum procurement targets for the share of clean heavy-duty vehicles in the total number of heavy-duty vehicles covered by contracts referred to in Article 3 at Member State level (*)

Member State	Trucks (vehicle category N_2 and N_3)		Buses (vehicle category M_3) (*)	
	From 2 August 2021 to 31 December 2025	From 1 January 2026 to 31 December 2030	From 2 August 2021 to 31 December 2025	From 1 January 2026 to 31 December 2030
Luxembourg	10 %	15 %	45 %	65 %
Sweden	10 %	15 %	45 %	65 %
Denmark	10 %	15 %	45 %	65 %
Finland	9 %	15 %	41 %	59 %
Germany	10 %	15 %	45 %	65 %
France	10 %	15 %	43 %	61 %
United Kingdom	10 %	15 %	45 %	65 %
Netherlands	10 %	15 %	45 %	65 %
Austria	10 %	15 %	45 %	65 %
Belgium	10 %	15 %	45 %	65 %
Italy	10 %	15 %	45 %	65 %
Ireland	10 %	15 %	45 %	65 %
Spain	10 %	14 %	45 %	65 %
Cyprus	10 %	13 %	45 %	65 %
Malta	10 %	15 %	45 %	65 %
Portugal	8 %	12 %	35 %	51 %
Greece	8 %	10 %	33 %	47 %
Slovenia	7 %	9 %	28 %	40 %
Czechia	9 %	11 %	41 %	60 %
Estonia	7 %	9 %	31 %	43 %
Slovakia	8 %	9 %	34 %	48 %
Lithuania	8 %	9 %	42 %	60 %
Poland	7 %	9 %	32 %	46 %
Croatia	6 %	7 %	27 %	38 %
Hungary	8 %	9 %	37 %	53 %
Latvia	8 %	9 %	35 %	50 %
Romania	6 %	7 %	24 %	33 %
Bulgaria	7 %	8 %	34 %	48 %

(*) Half of the minimum target for the share of clean buses has to be fulfilled by procuring zero-emission buses as defined in point 5 of Article 4. This requirement is lowered to one quarter of the minimum target for the first reference period if more than 80 % of the buses covered by the aggregate of all contracts referred to in Article 3, awarded during that period in a Member State, are double-decker buses.